

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARQUIS MASON,	§	
	§	No. 560, 2010
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0611003390
Appellee.	§	

Submitted: September 9, 2010  
Decided: September 15, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 15<sup>th</sup> day of September 2010, it appears to the Court that:

(1) On September 1, 2010, the Court received Marquis Mason’s notice of appeal from the Superior Court’s July 28, 2010 opinion and order denying Mason’s motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before August 27, 2010.<sup>1</sup>

(2) On September 1, 2010, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing that Mason show cause why the appeal should not be dismissed as untimely filed. In his response to the notice filed on September 9, 2010, Mason submits that he mailed the notice of appeal “in a timely manner,” *i.e.*, “as of August 26, 2010,” and that he should not be held responsible for any delay in the Court’s receipt of the appeal.

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<sup>1</sup> Del. Supr. Ct. R. 6(a)(iii).

(3) Mason's contentions are unavailing. "Time is a jurisdictional requirement."<sup>2</sup> Under Delaware law, a notice of appeal must be received by the Court within the applicable time period to be effective.<sup>3</sup> An appellant's *pro se* or incarcerated status does not excuse a failure to comply strictly with this jurisdictional requirement.<sup>4</sup> Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, the appeal cannot be considered.<sup>5</sup>

(4) In this case, the Court has concluded that the appeal must be dismissed. Mason does not contend, and the record does not reflect, that his failure to timely file the notice of appeal is attributable to court-related personnel.<sup>6</sup> Thus, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>2</sup> *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

<sup>3</sup> Del. Supr. Ct. R. 10(a).

<sup>4</sup> *Carr v. State*, 554 A.2d at 779.

<sup>5</sup> *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

<sup>6</sup> *See Deputy v. Roy*, 2004 WL 1535479 (Del. Supr.) (citing *Carr v. State*, 554 A.2d, 778, 779 (Del. 1989)) (dismissing untimely appeal after concluding that "[a]ny delay in prison mail system cannot justify enlargement of jurisdictional appeal period.").